

AMENDMENT 1

TO

**PROJECT AGREEMENT**

FOR

**CONSOLIDATED ACQUISITION FOR TRADEMARK  
SUPPORT SERVICES**

ISSUED BY

**THE UNITED STATES PATENT AND TRADEMARK  
OFFICE**

**SOLICITATION NUMBER  
52-PAPT-7-00028**

This amendment to the Project Agreement 52-PAPT-7-00028 is being issued to provide changes to, Section 3.2.1. of the Project Agreement, the Supplemental Federal Acquisition Regulations (FAR) Clauses and Certifications and Representations provided under the Consolidated Acquisition for Trademark Support Services. Accordingly the original Project Agreement and supporting documentation is amended as follows:

1. Section 3, Paragraph 3.2.1 should now read, "MAIL ROOM OPERATIONS The mail room staff sorts and properly directs several thousand pieces of mail daily. This mail consists of Trademark inter-office mail and mail received from and dispatched to the U.S. Postal Service and other commercial carriers. Currently the mail room processes approximately 11,000 pieces of incoming mail and 33,000 pieces of outgoing mail daily. Improperly addressed mail will be researched for proper routing. In addition to traditional mail room functions, new applications and fee correspondences are fee coded and assembled in accordance with standard operating procedures for processing by the Trademark Fee Processing Office."

2. Add the attached Agency Level Protest Procedures as Section 15 to the original Project Agreement.

3. See Supplemental FAR clauses for additions, updates and deletions.

4. See Certifications and Representations for deletions and updates.

Except as provided herein all other terms and conditions of the original Project Agreement remain in full force and effect.

## **15. AGENCY LEVEL PROTEST PROCEDURES**

### **DEPARTMENT OF COMMERCE AGENCY-LEVEL PROTEST PROCEDURES LEVEL ABOVE THE CONTRACTING OFFICER (DEC 1996)**

- 1. PURPOSE:** To implement the requirements of Executive Order No. 12979 and Federal Acquisition Regulation (FAR 33.103).

On October 25, 1995, President Clinton signed Executive Order No. 12979 which directs heads of executive agencies to develop administrative procedures for resolving protests of awards of procurement contracts within their agencies at a level above the contracting officer. Authority to administer procurement-related directives has been delegated within the Department of Commerce through the Chief Financial Officer and Assistant Secretary for Administration to the Director for Acquisition Management (Procurement Executive).

The Department's goal is to encourage protesters to resolve their protests at the agency level, help build confidence in the Government's acquisition system, and reduce protests to the General Accounting Office and other external fora. Prior to submission of an agency protest, all parties shall use their best efforts to resolve concerns raised by an interested party at the contracting officer level through open and frank discussions. If concerns cannot be resolved, protesters may use these procedures when a resolution is requested from the agency at a **level above the contracting officer**.

## **II. DEFINITIONS:**

**An agency protest** is one that may be filed with **either** the contracting officer or the protest authority but not both. When a protester decides to file a protest at the agency level with the protest decision authority, the guidelines set forth in these established agency level protest procedures above the contracting officer apply. These procedures are in addition to the existing protest procedures contained in the Federal Acquisition Regulation (FAR) Part 33.102. **A day** is a calendar day. In computing a period of time for the purpose of these procedures, the day from which the period begins to run is not counted. When the last day of the period is a Saturday, Sunday or Federal holiday, the period extends to the next day that is not a Saturday, Sunday or Federal holiday. Similarly, when the Washington, DC offices of the Department of Commerce are closed for all or part of the last day, the period extends to the next day on which the Department is open.

## **III. PROCEDURES:**

- a. Protesters using these procedures may protest to the protest decision authority who will make the final decision for the Department. Protest shall be addressed to:

James Lynch, Comptroller, U. S. Patent and Trademark Office, Office of Procurement, Box 6, Washington, DC 20231.

The outside of the envelope or beginning of the FAX transmission must be marked “**Agency level Protest**”. The protester shall also provide a copy of the protest within one (1) day to the responsible contracting officer and a copy to the addressee indicated below:

Contract Law Division  
Office of the Assistant General Counsel for Finance and Litigation  
Department of Commerce, Room H5882  
14<sup>th</sup> Street and Constitution Avenue, N.W.  
Washington, D.C. 20230  
(FAX # 202-482-5858)

b. **Election of Forum:** While a protest is pending at the agency level with the protest decision authority, the protester agrees not to protest to the General Accounting Office (GAO) or any other external fora. If the protester has already filed with the GAO of other external fora, the procedures described here may not be used.

1. Protests based upon alleged improprieties in a solicitation which are apparent prior to bid opening or time set for receipt of proposals shall be filed prior to bid opening or the time set for receipt of proposals. If the contract has been awarded, protests must be filed within 10 days after contract award or 5 days after the date the protester was given the opportunity to be debriefed, whichever is later. In cases other than those covered in the preceding two sentences, protests shall be filed not later than 10 days after the basis of the protest is known, whichever is earlier.
2. To be filed on a given day, protests must be received by 4:30 p.m. current local time. Any protests received after that time will be considered to be filed on the next day. Incomplete submissions will not be considered filed until all information is provided.
3. To be complete, protests must contain the following information:
  - (i) the protester’s name, address, telephone number, and fax number
  - (ii) the solicitation or contract number, name of the contracting office and the contracting officer
  - (iii) a detailed statement of all factual and legal grounds for protests, and an explanation of how the protester was prejudiced
  - (iv) copies of relevant documents supporting the protester’s statement

- (v) a request for ruling by agency
- (vi) Statement as to form of relief requested
- (vii) all information established that the protester is an interested party for the purpose of filing a protest
- (viii) all information establishing the timeliness of the protest.

**All protests must be signed by an authorized representative of the protester.**

Within 14 days after the protest is filed, the contracting officer will **prepare** an administrative report that response to the issues raised by the protester and address any other issues, which, even if not raised by the protester, have been identified by agency official as being relevant to the fairness of the procurement process. For good cause shown, the protest decision authority may grant an extension of time for filing the administrative report and for issuing the written decision. While an extension is granted, the protest decision authority will notify the protester and all interested parties within one (1) day of the decision to grant the extension.

Unless an extension is granted, the protest decision authority will issue a decision with 35 days of the protest. The protest decision authority's final decision will be binding on the Department of Commerce and not subject to further appeals.

The protest decision authority shall send a written ruling and a summary of the reasons supporting the ruling to the protester by **certified mail, return receipt requested with information copies to the applicable contracting office and the Office of Acquisition Management.**

**Effect of protest on award and performance:**

When a protest is filed prior to award, a contract may not be awarded unless authorized by the **Head of the Contracting Activity (HCA)** based on a written finding that:

- (I) The supplies or services are urgently required, (ii) delivery or performance would be unduly delayed by failure to make the award promptly, or (iii) a prompt award will be in the interest of the Government.

When a protest is filed within ten (10) days after contract award or 5 days after a debriefing date was offered to the protester under a timely debriefing request in accordance with FAR 15.1004, whichever is later, the contracting officer shall immediately suspend the performance pending the resolution of the protest within the agency, including any review by an independent higher official, unless continued performance is justified. The HCA may authorize contract performance, notwithstanding the protest, based on a written finding that:

(i) contract performance would be in the best interest of the United States, or (ii) urgent and compelling circumstances that significantly affect the interests of the United States will not permit waiting for a decision.

#### **IV. REMEDIES:**

The protest decision authority may grant one or more of the following remedies:

- (1) terminate the contract,
- (2) re-compete the requirement,
- (3) issue a new solicitation,
- (4) refrain from exercising option under the contract,
- (5) award a contract consistent with statutes and regulations,
- (6) amend the solicitation provisions which gave rise to the protest and continue with the procurement,
- (7) such other remedies as the decision-maker may determine are necessary to correct a defect.